

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-88

July 22, 2004

MAINE PUBLIC SERVICE COMPANY
Request for Approval Power Purchase
Agreement with Irving Forest Products-
Pinkham Sawmill

ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

By this Order, we approve a special rate contract between Maine Public Service Company (MPS) and Irving Forest Products, Inc., Pinkham Sawmill (Irving) pursuant to 35-A M.R.S.A. § 703.

II. BACKGROUND

On February 3, 2004, MPS filed a Power Purchase and Customer Service Agreement (the Agreement) between MPS and Irving for approval pursuant to 35-A M.R.S.A. § 703. Irving operates a sawmill located in Ashland, Maine consisting primarily of facilities for producing dimension lumber. Irving is MPS's third largest customer, and according to MPS, has a realistic alternative to self-generate.

The term of the Agreement is three years. During the term, Irving agrees to not self-generate or otherwise bypass MPS's delivery system. By the terms of the Agreement, Irving shall pay for delivery service in accordance with the MPUC rate schedule except that the stranded cost component of Rate S-T will be discounted by 75%. The Agreement also provides for liquidated damages in the event that Irving self-generates or otherwise bypasses MPS's delivery system during the term.

MPS also states in its filing that "the Agreement requires the Commission's explicit determination that MPS be allowed to recover in rates to other customers any of the discount from Irving Forest Products that MPS is foregoing." Subsequent communications between Staff and MPS have clarified that, in addition to an accounting order that permits MPS to defer the "lost revenue" as a result of the special rate contract, MPS desires a Commission finding that MPS was prudent to enter into the Agreement.

As MPS asked for a Commission finding that it was prudent entering into the Agreement and for an accounting order to recover "lost revenue," the Commission treated MPS's filing as an adjudicatory proceeding and allowed petitions to intervene to be filed by April 13, 2004. Central Maine Power Company filed a timely intervention request, asking for limited intervention of "receiving filings and potentially filing a brief."

An initial case conference and technical conference was held on April 15, 2004. CMP's request for limited intervention was granted. The Commission Staff asked technical questions to MPS representatives, many of which were ultimately treated as oral data requests. CMP consented to a follow-up data request process by which Advisory Staff would telephone MPS technical representatives directly without notice or opportunity for CMP to participate in the telephone calls.

On April 22, 2004, McCain Foods, Inc. (McCain) and Huber Engineered Woods, LLC (Huber) filed late-filed petitions to intervene. MPS and McCain and Huber filed various pleadings in response to each other's pleadings, that discussed the late-filed petitions to intervene, protective order issues and discovery. Ultimately, MPS objected to the late-filed petitions to intervene. Although the Commission never ruled on McCain's and Huber's petitions to intervene, on July 9, 2004, McCain and Huber requested leave to withdraw from participating in this Docket. The Examiner granted the requests on July 13, 2004.

III. DECISION

Based on a review of the information supplied by MPS, including the details regarding Irving's self-generation option, Advisory Staff agrees with MPS's conclusion that self-generation appears to be a viable, and economic, alternative for Irving.¹ Moreover, Irving is a firm with sufficient economic and technical resources to carry out such an alternative. We, therefore, find it reasonable for MPS to offer Irving a discount from MPS's rate schedules in order to persuade Irving to defer installing self-generation.

Further, after comparing the cost of Irving's alternative to the cost of Irving purchasing electricity, we are satisfied that MPS has reasonably maximized the revenue contribution from Irving during the term of this contract.

Therefore, in addition to recommending that the Commission approve the special rate contract, the Advisory Staff recommends that the Commission find MPS to be prudent for entering into the contract and grant MPS its requested accounting order. We accept Staff's recommendations. We note that the accounting order is acceptable in this instance since we recently completed a revenue requirement investigation of MPS.

Accordingly, we

O R D E R

¹ The Advisory Staff makes these conclusions and recommendations in an Examiner's Report dated July 7, 2004. No exceptions or comments were filed in response to the Examiner's Report.

1. That the Power Purchase and Customer Service Agreement between Maine Public Service Company and Irving Forest Products, Inc., Pinkham Sawmill is approved pursuant to 35-A M.R.S.A. § 703;

2. That Maine Public Service Company is authorized to account for the difference between the revenue it receives from Pinkham Sawmill pursuant to the Power Purchase & Customer Service Agreement and the revenue that was assumed would be received for the Pinkham Sawmill in MPS's rate case in Docket No. 2003-666 as a regulatory asset for later recovery in rates.

Dated at Augusta, Maine, this 22nd day of July, 2004.

BY ORDER OF THE COMMISSION

Raymond J. Robichaud
Acting Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.